

AMENDED IN SENATE JULY 1, 2014
AMENDED IN ASSEMBLY MAY 28, 2014
AMENDED IN ASSEMBLY MAY 15, 2014
AMENDED IN ASSEMBLY APRIL 29, 2014
AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1804

Introduced by Assembly Member Perea

February 18, 2014

An act to add Section 396 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1804, as amended, Perea. Insurance: notice of lapse.

Existing law requires an insurance policy to specify certain information, including, but not limited to, the parties to the contract, the property or life insured, the risks insured against, premium, and the coverage period.

This bill, commencing January 1, 2016, and with regard to private passenger automobile insurance *that provides coverage for 6 months or longer*, specified ~~owner-occupied homeowners' insurance risks, residential property insurance,~~ and policies of individual disability income insurance that are issued and take effect or that are renewed on or after January 1, 2016, would require an insurer to maintain a *verifiable delivery process or adopt a procedure* that allows an ~~insured applicant or policyholder~~ to designate one additional person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of a policy

for nonpayment of premium, as specified. The bill would prohibit an insurance policy from lapsing or being terminated for nonpayment of premium unless the insurer, at least 10 days prior to the effective date of the lapse, termination, expiration, nonrenewal, or cancellation, gives notice, as provided, to the individual designated, if any, at the address provided by the ~~insured~~ policyholder for these purposes. The bill would specify that an individual designated by a policyholder does not have any rights, whether as an additional insured or otherwise, to any benefits under the policy, other than the right to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 396 is added to the Insurance Code, to
2 read:
3 396. (a) An insurer shall ~~maintain~~ *do either of the following:*
4 (1) *Maintain a verifiable delivery process that allows an insured*
5 *a policyholder to designate in writing or by electronic transmission*
6 *pursuant to Section 38.5 one additional person to receive notice*
7 *of lapse, termination, expiration, nonrenewal, or cancellation of a*
8 *policy for nonpayment of premium. The insurer shall notify the*
9 *insured policyholder in writing or by electronic transmission*
10 *pursuant to Section 38.5 of this right at the time of the application*
11 *or within 30 days after the inception date of an individual policy*
12 *described in subdivision (e), and at least every two years thereafter.*
13 The notification described in this subdivision shall instruct the
14 ~~insured policyholder~~ how to request the designation and how to
15 replace or delete a designee. *If a policyholder initiates contact with*
16 *the insurer after the insurer has provided notice and the insurer*
17 *complies with the policyholder's request to establish or change*
18 *the additional person to receive the notice described in this section,*
19 *the insurer shall not be required to maintain additional verification.*
20 ~~(b) If an insurer does not maintain the process described in~~
21 ~~subdivision (a), the insurer shall comply with subdivisions (e) to~~
22 ~~(i), inclusive.~~
23 (2) *Comply with subdivision (b).*

1 (b) An insurer that adopts the following procedure shall be
2 deemed to have complied with subdivision (a).

3 (e)

4 (1) Unless an applicant for insurance has been provided notice
5 of the right set forth in this section prior to inception of the policy,
6 the insurer shall provide the ~~insured~~, *policyholder*, within 30 days
7 after the inception date of an individual policy described in
8 subdivision ~~(i)~~, (e), with notice of the right to designate one person,
9 in addition to the ~~insured~~, *policyholder*, to receive notice of lapse,
10 termination, expiration, nonrenewal, or cancellation of a policy
11 for nonpayment of premium. The insurer shall provide each
12 applicant or ~~insured~~ *policyholder* with ~~written~~ notice *in writing or*
13 *by electronic transmission pursuant to Section 38.5* of the
14 opportunity to make the designation. That notice shall instruct the
15 applicant or ~~insured~~ *policyholder* on how he or she is to submit
16 the name, address, and telephone number of one person, in addition
17 to the applicant or ~~insured~~, *policyholder*, who is to receive notice
18 of lapse, termination, expiration, nonrenewal, or cancellation of
19 the policy for nonpayment of premium.

20 (d)

21 (2) If after having been provided notice from the insurer of the
22 right to designate an individual to receive notice of lapse,
23 termination, expiration, nonrenewal, or cancellation for
24 nonpayment of premium, the applicant *or policyholder* fails to
25 take action pursuant to subdivision (a) within 30 days, the ~~insured~~
26 *applicant or policyholder* shall be conclusively presumed to have
27 declined the opportunity to exercise his or her right at that time.

28 (e)

29 (3) Notwithstanding subparagraph (C) of paragraph (2) of
30 subdivision (a) of Section 791.13 or any other law, the insurer
31 shall retain and utilize as necessary the contact information
32 provided in the written designation for the lifetime of the policy,
33 and allow the ~~insured~~ *policyholder* to update the written designation
34 if the ~~insured~~ *policyholder* so requests.

35 (f) ~~An insured~~

36 (4) A *policyholder* retains the right to designate the one
37 additional person to receive notice of lapse, termination, expiration,
38 nonrenewal, or cancellation for nonpayment of premium at any
39 time, at the initiative of the ~~insured~~, *policyholder*, regardless of
40 whether the ~~insured~~ *policyholder* previously declined to exercise

1 that right. At least every two years, the insurer shall notify the
2 ~~insured~~ policyholder in writing or by electronic transmission
3 pursuant to Section 38.5, of whichever of the following applies:

4 ~~(1)~~

5 (A) If ~~an insured~~ a policyholder has previously provided a
6 ~~written~~ designation pursuant to ~~subdivision (e)~~, this subdivision,
7 in writing or by electronic transmission pursuant to Section 38.5,
8 the right to change the prior ~~written~~ designation by replacing or
9 deleting a person to receive notice of lapse, termination, expiration,
10 nonrenewal, or cancellation for nonpayment of premium.

11 ~~(2)~~

12 (B) If the ~~insured~~ policyholder has not previously designated a
13 person to receive the notice of lapse, termination, expiration,
14 nonrenewal, or cancellation for nonpayment of premium pursuant
15 to this subdivision ~~(e)~~, the right to designate a person to receive
16 notice of lapse, termination, expiration, nonrenewal, or cancellation
17 for nonpayment of premium.

18 ~~(3)~~

19 (C) The notice requirements in ~~paragraphs (1) and (2)~~
20 ~~subparagraphs (A) and (B)~~ may be provided to ~~insureds~~ a
21 policyholder in a single notice and shall not require two separate
22 notices.

23 ~~(g)~~

24 (c) When ~~an insured~~ a policyholder pays the premium for an
25 insurance policy through a payroll or pension deduction plan, the
26 requirements contained in ~~subdivision (e) paragraph (1) of~~
27 ~~subdivision (b)~~ need not be met until 60 days after the ~~insured~~
28 policyholder is no longer on that deduction payment plan. The
29 application form for an insurance policy shall clearly indicate the
30 deduction payment plan selected by the applicant.

31 ~~(h)~~

32 (d) An insurance policy shall not lapse or be terminated for
33 nonpayment of premium unless the insurer, at least 10 days prior
34 to the effective date of the lapse, termination, expiration,
35 nonrenewal, or cancellation, gives notice to the individual
36 designated pursuant to subdivision (a) or (b) at the address provided
37 by the ~~insured~~ policyholder for purposes of receiving the notice
38 of lapse, termination, expiration, nonrenewal, or cancellation for
39 nonpayment of premium. Notice shall be given by first-class United
40 States mail, postage prepaid, within 10 days after the premium is

1 due and unpaid. This subdivision does not modify requirements
2 for notice to the ~~insured~~ *policyholder* of lapse, termination,
3 expiration, nonrenewal, or cancellation set forth in other sections
4 of this code.

5 ~~(i)~~

6 *(e)* This section applies only to policies of private passenger
7 automobile insurance, ~~owner-occupied homeowners' insurance~~
8 ~~on risks located or resident in this state that are issued and take~~
9 ~~that provide coverage for six months or longer, policies of~~
10 ~~residential property insurance as described in subdivision (a) of~~
11 ~~Section 10087 that take effect or that are renewed after the effective~~
12 ~~date of this section, and policies of individual disability income~~
13 ~~insurance as described in subdivision (i) of Section 799.01.~~

14 ~~(j)~~

15 *(f)* This section applies to policies that are issued and take effect
16 or that are renewed on or after January 1, 2016.

17 ~~(k)~~

18 *(g)* An individual designated by a policyholder pursuant to this
19 section to receive notice of lapse, termination, expiration,
20 nonrenewal, or cancellation of the policy for nonpayment of
21 premium does not have any rights, whether as an additional insured
22 or otherwise, to any benefits under the policy, other than the right
23 to receive notice as provided by this section.

24 ~~(l)~~

25 *(h)* This section shall become operative on January 1, 2016.